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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,617	12/24/2003	Aaron Golle	1748004US1	1470
21186	7590	06/06/2006	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/707,617

Applicant(s)

GOLLE ET AL.

Examiner

Jason M. Han

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 20 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20060317.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's amendment with respect to Claims 1-10 has been considered, whereby a new rejection is necessitated and given below.
2. The prior art of Hoffman (U.S. Patent 5339550) remains pertinent to the prosecution for the obvious teaching in applying/attaching an EL safety sign to various vehicles (e.g., snowplow, recreational, SUV) and articles of clothing (e.g., collars for pets).

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities: In line 4 of the claim, there are two commas adjacent to one another. Appropriate correction is required.
4. Claim 1 is further objected to because of the following informalities: The Applicant identifies multiple first and second colors, which renders confusion and uncertainty. Applicant should elaborate, and perhaps identify the second recitation of the first and second colors to utilize the appropriate article (i.e., definite article – “the” first color). Appropriate correction is required.

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The following rejected claims have been construed in light of the specification, but rendered the broadest interpretation as stated by the Applicant within the context of the claim language [MPEP 2111].

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Burrows (U.S. Patent 6309764 B1).

6. With regards to Claim 1, Burrows discloses an electroluminescent (EL) safety sign and method of assembly including:

- An electroluminescent element having a base [Figures 1-3: (106, 107)] and an EL portion [Figures 1-3: (108)] adhered to the base with power source [Figure 4: (118A, 118B)];
- Applying a pattern layer [Figures 1-3, 6: (104, 301); Column 7, Lines 33-41] with indicia over the EL portion; and
- Applying a tinting layer over the pattern layer [Figure 6; Column 10, Lines 20-29];
- Wherein the EL portion is a first color in a non-illuminated condition, and a second color in an illuminated condition [Column 9, Lines 2-13], and wherein the tinting layer is tinted so that when the EL portion is non-illuminated the tinting causes the sign to produce a first color different than the color of the EL portion in the non-illuminated condition [Column 9, Lines 48-61], and so that when the EL portion is illuminated the tinting causes the safety sign to

Art Unit: 2875

produce a second color different than the first color and different than the color of the EL portion in the illuminated condition [Column 9, Line 62 – Column 10, Line 8].

It should be noted that signs are intended to convey messages, whereby a safety sign, as broadly interpreted, does not attain any unique status.

7. With regards to Claim 2, Burrows discloses an EL element that includes an AC or DC power source [Figure 4: (401-403); Column 7, Lines 42-59].

8. With regards to Claim 3, Burrows discloses applying the safety sign to an article of clothing [see Title of the Invention].

9. With regards to Claim 4, Burrows discloses applying the safety sign to a hat [Column 3, Line 61].

10. With regard to Claim 10, Burrows discloses applying a layer that protects the EL device from damage [Figures 1-3: (114, 116); Column 6, Lines 17-23].

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrows (U.S. Patent 6309764 B1) as applied to Claim 1 above, and further in view of Hoffman (U.S. Patent 5339550).

Art Unit: 2875

Burrows discloses the claimed invention as cited above, but does not specifically teach applying the safety sign to a snowplow (re: Claim 5), a vehicle (re: Claim 6), a recreational vehicle (re: Claim 7), an SUV (re: Claim 8), nor to an animal collar (re: Claim 9).

Hoffman teaches applying the safety sign to a vehicle/recreational vehicle [Figure 5; Column 6, Lines 3-7], and discloses, "While the discussion of the invention has emphasized its use in connection with motor vehicles, specifically automobiles, signs according to the invention could also be mounted on trucks, boats, and the like, or on articles of clothing or the like, where not otherwise limited [Column 6, Lines 3-7]."

It would have been obvious to one ordinarily skilled in the art that one could apply the safety sign of Burrows to an animal collar, which is a commonly known article of clothing and known within the art, as well as to a snow plow or SUV, which are commonly known trucks or large vehicles, all of which are suggested and principally taught by Hoffman. In doing so, safety and visibility of the person/animal/large vehicle would increase.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 2875

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason M Han

Application/Control Number: 10/707,617  
Art Unit: 2875

Page 7

Examiner  
Art Unit 2875

JMH (5/23/2006)



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